

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.77 of 2005

Kirit G. Kapadia ...Appellant

V/s

The Kandivli Laxmi Apartment

co Op Hsg Scy. Ltd ... Respondent

Shri P.B.Shah for Appellant

CORAM:A.S.OKA, J.

DATED:14th Feb. 2005

P.C.:-

1. The appeal is by original plaintiff for challenging the judgment and order dated 12-7-2001. By the said order, Notice of Motion taken out by the appellant has been dismissed. The learned trial Judge has noted that one of the prayer in Notice of Motion does not survive as the parties have already taken "a" consent order. As regards construction of compound wall, the learned trial Judge has observed that if anything is done illegally, the Municipal Corporation can always take action against the same.

2. No interference is called for in the discretionary

order passed by the trial Court. Hence the appeal is dismissed. No order as to costs.

3. The trial Judge will decide the suit without being influenced by the observations made in this order.

4. Parties to act on the copy of this order duly authenticated.

(A.S.OKA, J.)